

The Special Administrative Law Judge originally found claimant suffered an 8 percent general body disability based on functional impairment for bilateral upper extremity injury occurring over a period of time from 1991 through May 11, 1994, with this last date considered the date of accident. By Order of August 29, 1996, the Appeals Board modified the Award to grant claimant a work disability. Respondent appealed the Board's decision to the Court of Appeals and the Court of Appeals found, for reasons detailed in the decision, claimant is not entitled to a work disability. The Court of Appeals reversed the Board and remanded the case for further proceedings consistent with the Court's decision. The single issue on remand is, therefore, the extent of claimant's functional impairment.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After consideration of the evidence upon remand from the Court of Appeals, the Appeals Board concludes the original Award of 8 percent permanent partial disability based on functional impairment should be affirmed.

The record includes medical evaluations by two physicians. Dr. Ernest R. Schlachter examined claimant on July 27, 1994, and concluded claimant suffered a 9 percent permanent partial impairment of function to the body as a whole.

Dr. Tyrone D. Artz examined claimant on January 30, 1995, and concluded that claimant suffered a 6 percent permanent partial impairment of function to the body as a whole.

The Board affirms the finding by the Special Administrative Law Judge that claimant has an 8 percent permanent partial impairment of function to the body as a whole. Pursuant to K.S.A. 44-510e, the impairment of function becomes, in cases where work disability is not appropriate, the basis for the disability to be awarded.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Special Administrative Law Judge Douglas F. Martin on February 9, 1996, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Timothy J. King, Wichita, KS
Kirby A. Vernon, Wichita, KS
Douglas F. Martin, Special Administrative Law Judge
Philip S. Harness, Director